

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2331 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

RAMESHBHAI SHIVRAM VALAND

Versus

AHMEDABAD ELECTRICITY CO

Appearance:

MR YF MEHTA for Petitioner

MR KB PUJARA for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 26/04/2001

ORAL JUDGEMENT

1. Heard Learned counsel for the parties. Rule. Mr. K.B. Pujara, Learned counsel appearing for Ahmedabad Electricity Company waives service of rule.

2. The present petition has been filed by Shri. Rameshbhai Shivram Valand for connection of electricity in his rented premises situated at Ellisbridge, Ahmedabad. The electricity connection in the building premises was in the name of one Shri. Chimanlal Ambalal Trivedi being Service No: 69848. When the connection was in the name of Chimanlal Ambalal Trivedi, litigation started between the petitioner, Chimanlal Ambalal Trivedi and others regarding possession of the premises. Present petitioner and respondents No. 5 to 8 in Civil Suit No. 6903 of 1991 are the legal heirs of Shivram Valand. The aforesaid civil suit was decreed, against which an appeal has been filed and, ultimately Division Bench of this Court in Letters Patent Appeal No. 628 of 2000 by its

judgment & order dated 9-10-2000 upheld the decree passed by the City Civil Judge at Ahmedabad. It further appears from the copy of the execution case that the petitioner put the decree in execution and in pursuance of the execution proceeding the petitioner & other legal heirs were put to possession of the premises as tenants. From the order dated 29-12-2000 of the executing Court it is evident that the petitioner and respondent no. 5 to 8 of Civil Suit No. 6903 of 1991 were put in possession of the premises as tenants. It is submitted by learned counsel for the petitioner that, though the petitioner and respondents No. 5 to 8 were put in possession of the premises but in the meantime the electricity connection in the name of Chimanlal Ambalal Trivedi was discontinued by AEC because of non payment of electricity bills and now the AEC is not in a position to know who is the actual owner of the property and, therefore, they are not in a position to provide electricity in the premises. From the judgment of the City Civil Judge, Ahmedabad and the judgment of this Court in LPA No. 628 of 2000 it appears that the petitioner and other four legal heirs are in possession of the disputed property as tenants which was earlier occupied by Chimanlal Ambalal Trivedi. It is submitted by learned counsel for the petitioner that the petitioner is agreeable to pay the arrear of bill, that is the outstanding in the name of said Chimanlal Ambalal Trivedi. The petitioner has already filed an application to AEC for restoration of electricity line in the premises, but this has not been done uptill now.

3. Mr. Pujara, learned counsel appearing on behalf of the AEC submitted that, the Electricity Company has no objection in giving electricity to the genuine consumers. It is submitted by Mr. Pujara that earlier electricity connection was in the name of Chimanlal Ambalal Trivedi and the Company is not aware who is the present owner of the premises and therefore, it is not possible to provide electricity to any one. After hearing submission of learned counsel for the parties, I have no hesitation to hold that the petitioner and other four legal heirs were put to possession in respect of the disputed properties as tenants in the execution proceeding and therefore, it is evident that the petitioner along with three sisters that is respondent No. 6 to 8 and mother Kantaben Shivram, respondent No. 5 are in occupation of disputed property as tenants as per the decree of the Civil Court and confirmed by the High Court. Therefore, the AEC should not have any objection to provide electricity in the premises of the petitioner. Accordingly the

respondent AEC is directed to transfer the Electricity Service No: 69848 presently standing in the name of Chimanlal Ambalal Trivedi, in the name of petitioner Shri. Rameshbhai Shivram Valand on the condition that, petitioner pays the arrear of bill and also the cost and charges for installation of electricity line in the premises.

4. Present petition is accordingly allowed. Rule made absolute to the aforesaid extent. I make no order as to costs. Direct service permitted.

Dt: 26-4-2001

(P.K. Sarkar, J)

/vgn